

**MAXIMO TACAY, PONCIANO PANES AND ANTONIA NOEL,
PETITIONERS, VS. REGIONAL TRIAL COURT OF TAGUM, DAVAO DEL
NORTE, BRANCHES 1 AND 2, PRESIDED BY HON. MARCIAL
FERNANDEZ AND HON. JES...**

G.R. Nos. 88075-77. December 20, 1989

Ponente: NARVASA, J.

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NARVASA, J.:

In the Regional Trial Court at Tagum, Davao del Norte,¹ three (3) actions for recovery of possession (acciones publicianas²) were separately instituted by Godofredo Pineda against three (3) defendants, docketed as follows:

- 1) vs. Antonia Noel
Civil Case No. 2209
- 2) vs. Ponciano Panes
Civil Case No. 2210
- 3) vs. Maximo Tacay
Civil Case No. 2211.

Civil Cases Numbered 2209 and 2211 were raffled to Branch I of the Trial Court, presided over by Judge Marcial Hernandez. Civil Case No. 2210 was assigned to Branch 2, presided over by Judge Jesus Matas.

The complaints¹ all alleged the same essential facts: (1) Pineda was the owner of a parcel of land measuring 790 square meters, his ownership being evidenced by TCT No. T-46560; (2) the previous owner had allowed the defendants to occupy portions of the land by mere tolerance; (3) having himself need to use the property, Pineda had made demands on the defendants to vacate the property and pay reasonable rentals therefor, but these demands had been refused; and (4) the last demand had been made more than a year prior to the commencement of suit. The complaints prayed for the same reliefs, to wit:

- 1) that plaintiff be declared owner of the areas occupied by the defendants;
- 2) that defendants and their "privies and allies" be ordered to vacate and deliver the portions of the land usurped by them;
- 3) that each defendant be ordered to pay:
 - 1) P2,000 as monthly rents from February, 1987;
 - 2) "Actual damages, as proven;"
 - 3) "Moral and nominal damages as the Honorable Court may fix;"²

4) "P30,000.00, "as attorney's fees, and representation fees of P5,000.00 per day of appearance;"

and

4) that he (Pineda) be granted such "further relief and remedies ** just and equitable in the premises."

The prayer of each complaint contained a handwritten notation (evidently made by plaintiff's counsel) reading, "P5,000.00 as and for," immediately above the typewritten words, "Actual damages, as proven," the intention apparently being to make the entire phrase read, "5,000.00 as and for actual damages as proven."³

Motions to dismiss were filed in behalf of each of the defendants by common counsel.⁴ Every motion alleged that the Trial Court had not acquired jurisdiction of the case -

" . . . for the reason that the ** complaint violates the mandatory and clear provision of Circular No. 7 of the ** Supreme Court dated March 24, 1988, by failing to specify all the amounts of damages which plaintiff is claiming from defendant;" and

" . . . for ** failure (of the complaint) to even allege the basic requirement as to the assessed value of the subject lot in dispute."

Judge Matas denied the motion to dismiss filed in Civil Case No. 2210 but ordered the expunction of the "allegations in paragraph 11 of the ** complaint regarding moral as well as nominal damages."⁵ On motion of defendant Panes, Judge Matas later ordered the striking out, too, of the "handwritten amount of 'P5,000.00 as and for,' including the typewritten words 'actual damages as proven' ** in sub-paragraph b of paragraph 4 in the conclusion and prayer of the complaint **."¹

The motions to dismiss submitted in Civil Cases Numbered 2211 and 2209 were also denied in separate orders promulgated by Judge Marcial Fernandez.² His Order in Case No. 2209 dated March 15, 1989 (a) declared that since the "action at bar is for Reivindicatoria, Damages and Attorney's fees ** (d)efinitely this Court has the exclusive jurisdiction," (b) that the claims for actual, moral and nominal damages "are only one aspect of the cause of action," and (c) because of absence of specification of the amounts claimed as moral, nominal and actual damages, they should be "expunged from the records."

Ascribing grave abuse of discretion to both Judges Matas and Fernandez in the rendition of the Orders above described, the defendants in all three (3) actions have filed with this Court a "Joint Petition" for certiorari, prohibition and mandamus, with prayer for temporary restraining order and/or writ of preliminary prohibitory injunction," praying essentially that said orders be annulled and respondent judges directed to dismiss all the complaints "without prejudice to private respondent Pineda's re-filing a similar complaint that complies with Circular No. 7." The joint petition (a) re-asserted the proposition that because the complaints had failed to state the amounts being claimed as actual, moral and nominal damages, the Trial Courts a quo had not acquired jurisdiction over the three (3) actions in question -- indeed, the respondent Clerk of Court should not have accepted the complaints which initiated said suits, and (b) it was not proper merely to expunge the claims for damages and allow "the so-called cause of action for 'reivindicatoria' to remain for trial" by itself.³

The joint petition should be, as it is hereby, dismissed.

It should be dismissed for failure to comply with this Court's Circular No. 1-88 (effective January 1, 1989). The copies of the challenged Orders thereto attached⁴ were not certified by the proper Clerk of Court or his duly authorized representative. Certification was made by the petitioners' counsel, which is not allowed.

The petition should be dismissed, too, for another equally important reason. It fails to demonstrate any grave abuse of discretion on the part of the respondent Judges in rendering the Orders complained of or, for that matter,

the existence of any proper cause for the issuance of the writ of mandamus. On the contrary, the orders appear to have correctly applied the law to the admitted facts.

It is true that the complaints do not state the amounts being claimed as actual, moral and nominal damages. It is also true, however, that the actions are not basically for the recovery of sums of money. They are principally for recovery of possession of real property, in the nature of an accion publiciana. Determinative of the court's jurisdiction in this type of actions is the nature thereof, not the amount of the damages allegedly arising from or connected with the issue of title or possession, and regardless of the value of the property. Quite obviously, an action for recovery of possession of real property (such as an accion plenaria de posesion) or the title thereof,¹ or for partition or condemnation of, or the foreclosure of a mortgage on, said real property² -- in other words, a real action -- may be commenced and prosecuted without an accompanying claim for actual, moral, nominal or exemplary damages; and such an action would fall within the exclusive, original jurisdiction of the Regional Trial Court.

Batas Pambansa Bilang 129 provides that Regional Trial Courts shall exercise exclusive original jurisdiction inter alia over "all civil actions which involve the title to, or possession of, real property, or any interest therein, except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts."³ The rule applies regardless of the value of the real property involved, whether it be worth more than P20,000.00 or not, infra. The rule also applies even where the complaint involving realty also prays for an award of damages; the amount of those damages would be immaterial to the question of the Court's jurisdiction. The rule is unlike that in other cases -- e.g., actions simply for recovery of money or of personal property,⁴ or actions in admiralty and maritime jurisdiction⁵ -- in which the amount claimed,⁶ or the value of the personal property, is determinative of jurisdiction; i.e., the value of the personal property or the amount claimed should exceed twenty thousand pesos (P20,000.00) in order to be cognizable by the Regional Trial Court.

Circular No. 7 of this Court, dated March 24, 1988, cannot thus be invoked, as the petitioner does, as authority for the dismissal of the actions at bar. That circular, avowedly inspired by the doctrine laid down in *Manchester Development Corporation v. Court of Appeals*, 149 SCRA 562 (May 7, 1987), has but limited application to said actions, as shall presently be discussed. Moreover, the rules therein laid down have since been clarified and amplified by the Court's subsequent decision in *Sun Insurance Office, Ltd. (SIOL) v. Asuncion, et al.*, G.R. Nos. 79937-38, February 13, 1989.

Circular No. 7 was aimed at the practice of certain parties who omit from the prayer of their complaints "any specification of the amount of damages," the omission being "clearly intended for no other purpose than to evade the payment of the correct filing fees if not to mislead the docket clerk, in the assessment of the filing fee." The following rules were therefore set down:

- 1) All complaints, petitions, answers, and similar pleadings should specify the amount of damages being prayed for not only in the body of the pleading but also in the prayer, and said damages shall be considered in the assessment of the filing fees in any case.
- 2) Any pleading that fails to comply with this requirement shall not be accepted nor admitted, or shall otherwise be expunged from the record.
3. The Court acquires jurisdiction over any case only upon the payment of the prescribed docket fee. An amendment of the complaint or similar pleading will not thereby vest jurisdiction in the Court, much less the payment of the docket fee based on the amount sought in the amended pleading.

The clarificatory and additional rules laid down in *Sun Insurance Office, Ltd. v. Asuncion*, supra, read as follows:

1. It is not simply the filing of the complaint or appropriate initiatory pleading, but (also) the payment of the prescribed docket fee that vests a trial court with jurisdiction over the subject-matter or nature of the action. Where the filing of the initiatory pleading is not accompanied by payment of the docket fee, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period.

2. The same rule applies to permissive counterclaims, third-party claims and similar pleadings, which shall not be considered filed until and unless the filing fee prescribed therefor is paid. The court may also allow payment of said fee within a reasonable time but also in no case beyond its applicable prescriptive or reglementary period.

3. Where the trial court acquires jurisdiction over a claim by the filing of the appropriate pleading and payment of the prescribed filing fee but, subsequently, the judgment awards a claim not specified in the pleading, or if specified, the same has been left for determination by the court, the additional filing fee therefor shall constitute a lien on the judgment. It shall be the responsibility of the Clerk of Court or his duly authorized deputy to enforce said lien and assess and collect the additional fee."

As will be noted, the requirement in Circular No. 7 that complaints, petitions, answers, and similar pleadings should specify the amount of damages being prayed for not only in the body of the pleading but also in the prayer, has not been altered. What has been revised is the rule that subsequent "amendment of the complaint or similar pleading will not thereby vest jurisdiction in the Court, much less the payment of the docket fee based on the amount sought in the amended pleading," the trial court now being authorized to allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period. Moreover, a new rule has been added, governing awards of claims not specified in the pleading -- i.e., damages arising after the filing of the complaint or similar pleading -- as to which the additional filing fee therefor shall constitute a lien on the judgment.

Now, under the Rules of Court, docket or filing fees are assessed on the basis of the "sum claimed," on the one hand, or the "value of the property in litigation or the value of the estate," on the other.¹ There are, in other words, as already above intimated, actions or proceedings involving real property, in which the value of the property is immaterial to the court's jurisdiction, account thereof being taken merely for assessment of the legal fees; and there are actions or proceedings, involving personal property or the recovery of money and/or damages, in which the value of the property or the amount of the demand is decisive of the trial court's competence (aside from being the basis for fixing the corresponding docket fees).²

Where the action is purely for the recovery of money or damages, the docket fees are assessed on the basis of the aggregate amount claimed, exclusive only of interests and costs. In this case, the complaint or similar pleading should, according to Circular No. 7 of this Court, "specify the amount of damages being prayed for not only in the body of the pleading but also in the prayer, and said damages shall be considered in the assessment of the filing fees in any case."

Two situations may arise. One is where the complaint or similar pleading sets out a claim purely for money or damages and there is no precise statement of the amounts being claimed. In this event the rule is that the pleading will "not be accepted nor admitted, or shall otherwise be expunged from the record." In other words, the complaint or pleading may be dismissed, or the claims as to which the amounts are unspecified may be expunged, although as aforestated the Court may, on motion, permit amendment of the complaint and payment of the fees provided the claim has not in the meantime become time-barred. The other is where the pleading does specify the amount of every claim, but the fees paid are insufficient; and here again, the rule now is that the court may allow a reasonable time for the payment of the prescribed fees, or the balance thereof, and upon such payment, the defect

is cured and the court may properly take cognizance of the action, unless in the meantime prescription has set in and consequently barred the right of action.

Where the action involves real property and a related claim for damages as well, the legal fees shall be assessed on the basis of both (a) the value of the property and (b) the total amount of related damages sought. The Court acquires jurisdiction over the action if the filing of the initiatory pleading is accompanied by the payment of the requisite fees, or, if the fees are not paid at the time of the filing of the pleading, as of the time of full payment of the fees within such reasonable time as the court may grant, unless, of course, prescription has set in in the meantime. But where -- as in the case at bar -- the fees prescribed for an action involving real property have been paid, but the amounts of certain of the related damages (actual, moral and nominal) being demanded are unspecified, the action may not be dismissed. The Court undeniably has jurisdiction over the action involving the real property, acquiring it upon the filing of the complaint or similar pleading and payment of the prescribed fee. And it is not divested of that authority by the circumstance that it may not have acquired jurisdiction over the accompanying claims for damages because of lack of specification thereof. What should be done is simply to expunge those claims for damages as to which no amounts are stated, which is what the respondent Courts did, or allow, on motion, a reasonable time for the amendment of the complaints so as to allege the precise amount of each item of damages and accept payment of the requisite fees therefor within relevant prescriptive period.

WHEREFORE, the petition is DISMISSED, without pronouncement as to costs.

Fernan, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

1 Eleventh Judicial District

2 Acciones plenarias de posesion

1 Annexes A, B, and C, petition

2 Emphasis supplied

3 See Order dated Feb. 27, 1989 of Judge Fernandez in Civil Case No. 2211, at p.56 of the rollo

4 Annexes G, H, and I, petition

5 Annex J, petition; His Honor's order is dated Jan. 13, 1989

1 Annex L, petition; the order is dated March 8, 1989

2 Annexes M and N, petition

3 The argument that the complaints were also fatally defective for failure to state the assessed value of the land involved in the suits, is not reiterated in the joint petition.

4 Annexes J, L, M and N, petition

1 Accion reivindicatoria

2 SEE Rules 67, 68 and 69, Rules of Court

3 Sec. 19 (2)

4 Sec. 19 (8)

5 Sec. 19 (3)

6 Exclusive of interests and costs

1 Secs. 5 and 6, Rule 141, in relation to Secs. 19 and 33, BP 129

2 E.g., actions in admiralty and maritime jurisdiction where the demand or claim exceeds P20,000.00, matters of probate, both testate and intestate, where the gross value of the estate exceeds P20,000.00, cases in which the demand, exclusive of interest and costs or the value of the property in controversy, amounts to more, or less than, P20,000.00, are all within the exclusive original jurisdiction of the Regional Trial Court. Sec. 19, BP 129.

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